

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KIM VELASQUEZ,)	No. C 07-06479 TEH (PR)
Plaintiff,)	ORDER GRANTING PLAINTIFF'S
vs.)	MOTION FOR VOLUNTARY
MONTEREY COUNTY, et al.,)	DISMISSAL
Defendants.)	(Docket Nos. 4, 5 & 9)

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. On February 11, 2008, plaintiff filed a motion for a “stay and abeyance” in which he requests the Court to dismiss the action so as to exhaust his claim in state court. (Docket No. 9) The Court construes plaintiff’s request as a notice of voluntary dismissal pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure.

Plaintiff’s notice of dismissal was filed before service by the adverse party of an answer or motion for summary judgment; therefore, the Court finds that Plaintiff has the absolute right to dismiss his action voluntarily. See Fed. R. Civ. P. 41(a)(1)(i). Accordingly, this action is DISMISSED without prejudice. Id.

The clerk shall terminate all pending motions as moot, including Docket Nos. 4 and 5, and close the file.

SO ORDERED.

DATED: 4/28/2008


THELTON E. HENDERSON
United States District Judge